

**PRENEED FUNERAL AND
CEMETERY MERCHANDISE AND
SERVICES SALES & PURCHASING GUIDE**

ALABAMA DEPARTMENT OF INSURANCE

Jim Ridling, Commissioner of Insurance

201 Monroe Street, Suite 1700

Post Office Box 303351

Montgomery, Alabama 36130-3351

WWW.ALDOI.GOV

1-800-433-3966

334-240-4420

TABLE OF CONTENTS

INTRODUCTION	Page 1
CONSUMER TIPS	Page 2-3
PRENEED CONTRACT GENERAL INFORMATION	Page 4-8
FAQ'S FROM CONSUMERS	Pages 9-10
FAQ'S FROM PRENEED SALES AGENTS	Pages 11
FAQ'S FROM COMPANIES	Pages 12-19
CONTACT INFORMATION	Page 20
ADDITIONAL RESOURCES.....	Page 21

This brochure is designed to assist consumers to understand preneed funeral and cemetery arrangements and to assist preneed entities.

The death of a loved one is often a devastating experience, complicated by the many arrangements that must be made. With all the considerations, many people find themselves unable to grieve until after all the funeral arrangements have been finalized. Given the tumult this causes, one is distracted, and hence, vulnerable to those who might be inclined to take advantage of the bereaved. If one gives thought to these arrangements ahead of time, one may spare their loved ones additional grief.

More and more consumers have opted to arrange their or a loved one's funeral prior to death. These arrangements are commonly referred to as "preneed funeral arrangements". Through these arrangements, consumers are able to decide in advance what type of funeral they will have, while at the same time eliminating some of the stress that family members frequently experience. Consumers may also be able to lock in today's prices for a future funeral.

CONSUMER TIPS

- Be certain the funeral home, cemetery authority, crematory authority or third-party seller has a valid certificate of authority and the preneed seller is licensed as a preneed sales agent. For more information, log onto the Alabama Department of Insurance website at www.aldoi.org/preneeds.htm.
- Ask a family member to accompany you while making the preneed funeral arrangements.
- Ask the preneed seller for a detailed price list of services and merchandise before you select anything.
- Before signing a preneed contract, read it carefully and understand all the provisions. Ask questions.
- If you purchase a preneed arrangement, you should receive a copy of the contract that explains your rights and obligations, along with a written statement of all services and merchandise that you have purchased and the price. Do not accept any documents that have not been completely filled in and signed.
- Be sure you know what you are paying for. Are you buying only merchandise, such as a casket and vault, or are you purchasing funeral services as well?
- The contract must clearly state how it is funded (life insurance or trust fund). If a surety bond or letter of credit is being used in lieu of a trust, the contract must so state. If the trust is purchasing life insurance on your life, it must so state.
- If you are purchasing trust funded product, ask how your funds are secured and who the trustee is.
- If the trust is purchasing life insurance on your life, the contract must so state. You must be provided a consent form to sign.
- If a surety bond is being used in lieu of a trust, ask what insurance company has provided the surety bond and whether they are licensed in Alabama to write surety bonds. If a letter of credit is being used in lieu of a trust, ask what financial institution has provided the letter of credit.
- The contract is required to include to what extent the preneed seller is guaranteeing the prices of the merchandise and services you select. If the prices are not guaranteed, the preneed seller should explain who is responsible for paying additional monies that may be due at the time of the funeral.

- Thoughtfully consider before accepting an irrevocable agreement (a contract that cannot be cancelled). Irrevocable agreements may limit your flexibility.
- Keep a copy of your contract in a safe place. Tell a close family member or a friend that you have made arrangements and where the documents are kept.
- Before entering into a preneed contract, discuss your plans with your family and/or attorney to make sure the contract is consistent with your will and estate planning.

Preneed Contract General Information

Must be in writing and signed by purchaser and seller.

- Contract forms must be approved before use.
- Must identify the method of funding the preneed contract—Insurance or Trust.
- Must have a cancellation provision—100% first 30 days, may vary after 30 days—not stated in the law, but it must be stated in the contract.
- Transfer provision not required.
- Must have a purchaser acknowledgement of receipt of a price list.
- Cash advance items do not have a guaranteed price. Other items may not be guaranteed—check contract language.
- Must state percentage of funds that will be placed in trust and when.
- Insurance funded contracts may be funded by insurance purchased from preneed seller or an existing policy.
- A life Insurance Buyers Guide must be provided by the insurance agent to the insurance purchase when funding a preneed contract with insurance.
- Insurance premium payments must be made to insurance company-not the preneed seller.

Preneed Contract General Information

Prearrangement vs. Preneed Contract as defined in the Preneed Funeral and Cemetery Act

Prearrangement is the term applied to completing the details for selection of merchandise or services on a preneed basis, which may or may not include provisions for prefunding or prepayment.

Preneed contract is a written contract to purchase funeral merchandise, funeral services, cemetery merchandise, or cemetery services from a seller on a preneed basis.

Prearrangement No Funding Paid to the Seller

Not considered a Regulated Preneed Contract if:

- Buyer has no obligation to pay until need.
- Seller receives no payments until need.
- The arrangement does not include any agreement through which a seller obtains, on a preneed basis, beneficiary status or ownership rights in a financial mechanism a buyer may want to set up to provide the buyer with the funds to pay at need (a life insurance policy or annuity, or a deposit of funds like a bank account or certificate of deposit.).

Preneed Contracts Funds Paid to Seller WARNING

Do not purchase a preneed contract from a funeral establishment, cemetery authority; crematory or third-party seller that does not hold a valid preneed certificate of authority or from a preneed sales agent that is not registered.

Purchasing a preneed contract from a provider that holds a certificate of authority greatly reduces the risk, but does not eliminate the risk of losing all or part of your investment. There is no State backed guaranty or consumer protection fund.

Preneed Contract General Information

Alabama Statutes Allow Two Methods of Funding Preneed Contracts

1. Trust Funded Preneed Contracts

In lieu of funding preneed contracts with a trust, a letter of credit or surety bond may be utilized.

2. Insurance Funded Preneed Contracts

Trust Funded Preneed Contracts

Consumer purchases specific funeral or cemetery merchandise and services at guaranteed and/or non-guaranteed prices.

A written contract detailing the types of services and/or merchandise being purchased is required.

A sum of money is paid by the purchaser to the seller in installments or a single payment transaction.

Seller Requirements for Trust Funded Preneed Contracts

Place in trust (within 30 days after the end of the calendar month in which the contract is paid in full) the following:

75% of the purchase price collected for funeral services

100% of the funds collected for cash advance items

60% of the price collected for outer burial containers (vaults)

60% of the price collected for cemetery service

Preneed Contract General Information

Letter of Credit & Surety Bonds in Lieu of Trusting

The Seller can obtain a letter of credit or surety bond in the amount of the outstanding liabilities (original retail amount of services and cash advances and actual cost of undelivered merchandise).

Letter or surety bond guarantees performance at need only.

Investment in Life Insurance on Funeral Beneficiaries by Preneed Trusts

A trust may invest funds in many types of assets. Code of Alabama, 1975 27-14-3 and 27-17A-32 now allow a trust to invest in life insurance policy or an annuity contract on the life of the contract purchaser or funeral beneficiary.

Before a trust can purchase a policy on the contract purchaser or funeral beneficiary, the purchaser or funeral beneficiary must consent, in writing, to the purchase of the life insurance or annuity. The trust is the owner and beneficiary of the policy.

Life Insurance Funded Preneed Contracts

Two separate contracts—preneed contract and life insurance contract.

Consumer already owns or purchases (usually from the preneed seller) a life insurance policy.

The funeral home owner should generally not be made the owner of the policy.

The funeral home may be the beneficiary or assignee of the proceeds of the policy.

The beneficiary or assignee is paid directly by the insurance company upon the death of the insured.

All monies paid on the preneed contract should be made payable to the insurance company, not the preneed seller.

An insurance company receipt should be given by the preneed seller/insurance agent.

The insurance must cover at a minimum the retail value of the preneed contract.

The amount of the insurance being purchased should be on the insurance application at the time of signing.

FAQ'S FROM CONSUMERS

1. Who receives the interest on the trust funds?

The interest earned is the property of the preneed contract seller.

2. Does a preneed contract qualify as a method for spending down assets for Medicaid?

Yes, if the preneed contract is irrevocable and cannot be cancelled. Contact the Alabama Medicaid Agency at 1-800-362-1504 for further information.

3. Can a preneed contract be used at any funeral home or cemetery?

Funeral homes or cemeteries are not obligated to accept a contract issued by another preneed seller or to perform services or provide merchandise at the prices listed in the other preneed seller's preneed contract.

4. Are the proceeds of an insurance funded preneed contract taxable?

Insurance policy proceeds are not currently considered taxable income for U.S. Internal Revenue Service purposes.

5. Can I borrow the cash value of my insurance policy?

Yes, but only if you are the owner of the insurance policy. However, the estate must make up the difference in policy value (the amount available at death will be the face amount less amount borrowed) at the time of death.

6. What if I cancel my life insurance policy that funds my preneed contract?

The insurance policy may be subject to surrender charges and perhaps a reduced cash value. The preneed contract will terminate when the insurance policy is cancelled. The cash value may be substantially less than the premiums paid.

7. What if I fail to pay my insurance premium on my life insurance funded preneed contract?

Depending upon the nonforfeiture benefit elected, the insurance company may continue the policy by paying the premium out of the cash value of the policy. Once the cash value is exhausted, the life insurance policy will be canceled causing termination of the preneed contract. You should refer to your insurance contract for specifics.

8. What if I cancel my life insurance funded or trust funded preneed contract prior to need?

Preneed purchasers have the right to terminate a contract any time prior to use, provided it

has not been irrevocably assigned. A life insurance funded or trust funded contract may be cancelled within 30 days of the date purchaser signed the contract. If this is done, there will be a 100% refund of all monies paid. If a trust funded preneed contract is cancelled after 30 days, the preneed seller may impose a cancellation fee. If a life insurance funded preneed contract is cancelled after 30 days, the purchaser/ funeral beneficiary may retain ownership of the insurance policy. If the life insurance is cancelled, the owner of the policy is entitled to only the cash value of the policy which may be substantially less than the premiums paid.

- 9. I specified that my preneed contract be funded with a trust. The trust intends to purchase an insurance contract on my life with the preneed funds.**

Do I have to consent to the purchase of the insurance contract?

Yes. There is a form that must be furnished to you to obtain your consent.

Am I entitled to a copy of the insurance contract without cost?

Yes

Can I borrow the cash values of the contract?

No

Will any contract proceeds be paid to me, my estate or my heirs?

No. The trust is the owner and beneficiary of the contract.

If I do not consent to the trust purchasing insurance on my life, can the trust still invest in an insurance policy on my life?

No

FAQ'S FROM PRENEED SALES AGENTS

1. When must a preneed sales agent registration form be completed and what is the fee for the registration?

Each individual offering preneed contracts to the public or signing preneed contracts on behalf of a certificate holder must be registered with the Insurance Department as a preneed sales agent prior to selling or soliciting preneed contracts. The fee for each preneed sales agent registration is \$25.00. The preneed entity is not entitled to one free sales agent registration.

2. If a preneed entity satisfies the Act's security requirements by placing funds paid pursuant to a preneed contract in trust, must the preneed sales agent be registered pursuant to the Act?

Yes. Regardless of the method of funding the preneed contracts, all preneed sales agents must be registered.

3. Do persons selling preneed contracts for interment (burial) rights have to be registered as preneed sales agents?

No, if the preneed entity sells only interment rights or other merchandise and services that are not subject to the Act because the transaction does not result in a preneed contract (see Bulletin dated July 29, 2008). Yes, if the preneed entity sells preneed contracts subject to the Act.

4. Can a preneed sales agent represent or sell for different funeral directors, funeral establishments, cemetery authorities, third- party sellers, or their branch registrants at the same time?

Yes. However, the preneed sales agent must be registered as a preneed sales agent with each certificate holder for whom he or she sells preneed funeral or cemetery contracts. The preneed sales agent must have written consent from each certificate holder that he or she represents.

FAQ'S FROM COMPANIES

1. What is a “preneed contract”?

The Department considers a “preneed contract to be a written contract (1) entered into on a “preneed basis” (before the buyer’s death); (2) under which the buyer pays to the seller, before need and in whole or in part, a purchase price for funeral or cemetery merchandise and services; (3) under which the seller receives beneficiary status or ownership rights in a financial mechanism like a life policy or annuity or a deposit of funds like a bank account, certificate of deposit, etc.; and (4) under which the seller is not obligated to deliver the contracted for merchandise or perform the services, in whole or in part, until need. The Department’s position is discussed in the Bulletin dated August 21, 2008.

2. Does this include the preneed sale of interment (burial) rights?

No, a written contract for the sale of an interment (burial) right only is not a preneed contract even if the sale occurs before death. If sale of an interment right is combined with sale of other services and merchandise on a preneed basis, the entire transaction is a preneed contract.

3. Who must obtain a certificate of authority?

Any “persons” - an individual, a business entity or organization, or a government or governmental agency - selling funeral or cemetery merchandise or services pursuant to preneed contracts must have a current valid certificate of authority. A cemetery authority owned or operated by a governmental agency or religious institution does not need a certificate of authority. ALA CODE - §27-17A-10(d).

4. Who is eligible to obtain a certificate of authority?

Only a licensed funeral director, licensed funeral establishment, cemetery authority or third-party seller may obtain a certificate of authority. Only licensed funeral directors or licensed funeral establishments can sell funeral services preneed. Licensed funeral directors, licensed funeral authorities, cemetery authorities, and third-party sellers can sell funeral merchandise and cemetery merchandise preneed.

5. Does each licensed funeral director, licensed funeral establishment, cemetery authority, or third-party seller owned by the same corporation, partnership or sole proprietor need a separate certificate of authority?

Not in all cases. The Act provides that where a person selling preneed funeral or cemetery merchandise or services is part of “common business enterprise” and wishes to operate using a different name than that used by the certificate holder, then, if the requirements set

forth in the Act are met, that person can be authorized to sell preneed as a “branch registrant”. The Act requires that the branch registrant meet all requirements of a certificate holder EXCEPT that the branch registrant need not demonstrate that, standing alone, it can pay its liabilities as they become due during the ordinary course of business and also need not show that it has sufficient funds available during the calendar year to perform its obligations under outstanding preneed contracts. All branch registrants must be affiliated with a certificate holder.

6. If an entity operates both a funeral establishment and a cemetery authority, does it need only one certificate of authority and one financial statement?

Yes. If the funeral establishment and cemetery authority are part of the same legal entity and operating on the same property, only one certificate of authority is required.

7. Do sellers of memorials need a certificate of authority if the memorial is delivered to the purchaser?

No. In general, transactions which are current sales – the buyer pays and the seller delivers or performs upon payment – are not preneed contracts. See Bulletin dated August 21, 2008 for further examples.

Applications and Financial Reporting

8. Must the financial statement filed with the application for or renewal of the certificate of authority be filed on the forms provided by the Department?

At the preneed entity’s option, the financial statement shall be (1) a compilation, review or audit report from a licensed certified public accountant prepared in conformity with GAAP; or (2) in the form set forth in Rule 482-3-0010.05(6) and its appendix using the alternative basis specified in that Rule. The financial statement must demonstrate the level of equity shown in that Rule.

Yes. However, the preneed sales agent must be registered as a preneed sales agent with each certificate holder for whom he or she sells preneed funeral or cemetery contracts. The preneed sales agent must have written consent from each certificate holder that he or she represents.

9. Does the financial information required for the certificate of authority need to be audited?

No; however, every effort should be made to make sure that the financial statement is a complete and accurate record of the financial condition of the proposed or current certificate holder.

10. Does the financial statement have to include assets and liabilities for preneed contracts written prior to May 1, 2002? Is there a difference in the method of computing the prelaw liabilities and the post-law liabilities?

*Yes. For prelaw contracts, a preneed deferred revenue liability is required to be recorded on preneed funeral and/or cemetery merchandise **and** services. That prelaw liability must be calculated at the preneed entity's current cost of providing all funeral and/or cemetery merchandise **and** services for each contract. For post-law contracts, a preneed deferred revenue liability is required to be recorded on preneed funeral and/or cemetery services and merchandise. That post-law liability must be calculated at the preneed entity's retail value at the time of sale for all funeral and/or cemetery merchandise and services for each contract.*

11. If life insurance is used to fund a preneed contract, what amount must be recorded on the financial statement?

A preneed receivable must be recorded for the face amount of the life insurance policy and a preneed deferred revenue liability must be recorded for the face amount of the life insurance policy.

12. The financial statement that must be sent with the application for or renewal of a certificate of authority must be current as of what date?

The financial statement must be current as of the end of the last fiscal year-end of the preneed entity. Otherwise, the financial statement must be current as of the end of the prior calendar year for which application or renewal is being made. In other words, if application for or renewal of the certificate of authority is being made for calendar year 2008, the financial statement must be current as of December 31, 2007.

13. Both the application for or renewal of a certificate of authority and branch registration forms, as well as the historical sketch of principals forms attached thereto, inquire as to whether the applicant (or principal) have previously been the subject of a bankruptcy proceeding. Does a "Yes" response to this question disqualify the applicant?

No; however, additional information must be provided. If this previous bankruptcy proceeding was in no way associated with the business of insurance or preneed funeral or cemetery business, you may complete the Bankruptcy Affidavit which is available at <http://www.aldoi.gov/Preneed/Forms.aspx>.

TRUST REQUIREMENTS

14. Who can be a trustee of a merchandise and services trust?

The Act provides that any “person” can be the trustee of a funeral or cemetery merchandise or services trust. An entity trustee does not need to be domiciled in Alabama but its role as trustee must be consistent with its corporate or charter powers and authority and permissible under applicable laws of its domiciliary state. Because of the important interest protected by the Act, trusts with entity trustees (i.e., banks, savings and loan associations, trust companies, or other financial institutions) will be approved relatively quickly by the Commissioner of Insurance (the “Commissioner”). Funeral or cemetery merchandise or services trusts with individual trustees will be examined much more closely by the Commissioner. The submission of funeral or cemetery merchandise or services trust agreements with individual trustees will substantially delay approval of such trust agreements by the Commissioner. Individual trustees must be bonded in an amount at least equal to the amount required to be held in trust. The trustee of a cemetery endowment care fund must either be a bank, trust company, savings and loan association, other financial institution, or a board of trustees, at least three of whom reside within the State of Alabama and are bonded to honestly perform the duties of trustee under a formal trust

15. Who can be a trustee of a cemetery endowment care fund?

The trustee of a cemetery endowment care fund must either be a bank, trust company, savings and loan association, other financial institution, or a board of trustees, at least three of whom reside within the State of Alabama and are bonded to honestly perform the duties of trustee under a formal trust agreement. The amount of bond on each trustee shall be a minimum of \$25,000.00, but in no event shall the bond on each trustee be less than the amount held in the endowment care fund.

16. Must the trust be administered in Alabama?

No. The trust’s principal place of administration need not be in Alabama, but the trust must be governed by Alabama law and deposits must initially be made into an Alabama deposit or trust account controlled by the trustee before being transferred to the principal place of administration.

17. If a certificate holder chooses to participate in a trust created or sponsored by an association of which it is a member, does that certificate holder need to submit a separate trust document?

No. The trustee of the association trust will submit the association trust document on behalf of all the association's members. Approval will be given to the master trust agreement. Certificate holders who choose to participate in such trusts must, however, submit to the Commissioner an executed joinder agreement or a participation agreement bearing the name of the sponsoring association.

18. Do sellers of memorials need to place in trust the funds collected for memorials delivered to the purchaser?

In the case of a transaction involving only sale of a memorial and installation service, if a buyer pays immediately or on an installment plan, the seller delivers the memorial to the buyer immediately or within a contractually-stated reasonable time after payment not tied to need or to completion of installment payments, the transaction is not a preneed contract and trusting is not required. In the case of a preneed contract including a memorial, the proper amounts must be placed in trust within thirty (30) days after the end of the calendar month in which the contract is paid in full. If the memorial is delivered to the buyer or "is placed in storage with a responsible third party bonded and insured for the wholesale value thereof and evidenced by a receipt specifically identifying the item, the specific preneed contract, the location of the item, and the identity and address of the bonding and insuring parties" [ALA CODE §27-17A-44 (b)] before the time for trusting has run, trusting related to the memorial is not required.

Use of Life Insurance as a Funding Mechanism

19. If a preneed entity is using life insurance to fund the preneed contracts, is a trust needed?

No trust is needed if life insurance sold in connection with the sale of preneed contracts is used to fund the preneed contracts. This does not apply to preneed contracts funded by life insurance purchased by a funeral merchandise and services trust as allowed by Ala. Act No. 2008-271; such contracts are trust-funded contracts.

20. Does a certificate holder have an insurable interest in the life of the preneed purchaser?

No, a certificate holder does not have an insurable interest in the life of the preneed purchaser and a certificate holder cannot purchase life insurance on the life of a preneed purchaser.

21. Does a trust have an insurable interest in the life of the preneed purchaser?

*Under ALA CODE §27-14-3(d), as amended by Ala. Act No. 2008-271, a trustee of a funeral merchandise and services trust is deemed to have a limited insurable interest in the life of a preneed contract buyer or a preneed contract beneficiary that allows for investment of trust funds in life insurance on the life of the contract buyer/beneficiary. The trustee of a cemetery merchandise and services trust is **not** deemed to have an insurable interest in the life of a preneed contract buyer or a preneed contract beneficiary and thus the trustee of a cemetery merchandise and services trust may not invest in a life insurance contract or annuity on that buyer/beneficiary's life. The extent of the trustee's insurable interest is limited to the lesser of \$20,000 or 100% of the purchase price of the preneed contract. The trustee may invest any portion or all of the funds received under preneed contracts and deposited in trust in life insurance contracts or annuity contracts issued on the life of the preneed purchaser or preneed contract beneficiaries. Prior to the investment, the preneed purchaser must consent, in writing, to the investment in a life insurance contract or annuity on the life of the preneed purchaser. The Bulletin dated July 31, 2008 contains a model "written consent" form that must be used to obtain the informed consent of the preneed purchaser prior to the investment. A substantially similar form may be used by the trustee in place of the model, but such form must be approved by the Department of Insurance. For further information on investments in life insurance and annuities by preneed funeral merchandise and services trust, see the Bulletin dated July 31, 2008 and ALA CODE §27-14-3 and ALA CODE §27-17A-32.*

22. Do the disclosure and consent requirements of the July 31, 2008, Bulletin apply to both individual life insurance and group life insurance and is the model form required for both?

Yes.

23. If a person has an insurable interest in a preneed purchaser, does the preneed purchaser need to give consent on the life insurance application?

Yes, unless there is an exception to the consent requirement. The only exceptions to the consent requirement are where a power of attorney has been executed, there is a legal guardianship or the person is a spouse of the preneed purchaser. A minor child does not need to give consent if the parent of the minor child is purchasing the life insurance on the minor child.

24. Can a preneed entity hold the life insurance premiums?

No, checks for life insurance premiums must be made payable to the insurance company, not the preneed entity. If payment is tendered to the preneed provider, the preneed provider must furnish a receipt in compliance with Rule 482-1-078-.05.

25. If a preneed entity uses individual life insurance to fund the preneed contracts, does the preneed sales agent need to hold an insurance producer license to sell life insurance?

Yes. Registration as a preneed sales agent does not itself allow the holder to engage in the sale, solicitation, or negotiation of insurance. The preneed sales agent must also be licensed as an insurance producer (agent) to sell ordinary life insurance and properly appointed by the insurance company. However, the assignment of an existing life insurance policy to fund a preneed contract does not require a life insurance producer license.

26. If a preneed entity uses group life insurance to fund the preneed contracts, does the preneed sales agent need to hold an insurance producer license to sell life insurance?

If the preneed sales agent or employee's insurance related activity is strictly limited to obtaining information needed to enroll a preneed contract beneficiary in a group insurance plan or to issue that person a certificate of insurance under a group insurance plan and the preneed sales agent or employee is not paid a commission for such activity, an insurance producer license is not necessary. A person not properly licensed as an insurance producer cannot engage in activity which is the sale, solicitation, or negotiation of insurance.

27. What is the minimum amount of life insurance to be issued on a preneed contract?

A life insurance policy sold in connection with the sale of a preneed contract must, at a minimum, equal the retail amount of the preneed contract. Life insurance purchased by a trust as allowed under Ala. Act No. 2008-271 may be in an amount less than the retail amount of the preneed contract.

28. May a preneed sales agent be paid a commission by an insurance company in addition to any commission paid by a preneed provider for sale of a preneed contract?

Yes, if the preneed sales agent is properly licensed as an insurance producer and properly appointed by the paying insurance company, EXCEPT a preneed sales agent may not be paid a commission incident to a trust's purchase of life insurance under Ala. Act No. 2008-271 even if properly licensed and appointed. A person not licensed as a producer and properly appointed may not be paid insurance commissions.

Surety Bond or Letter Of Credit as Alternatives to the Trust Requirements

29. If the preneed entity plans to fund the preneed contracts with a surety bond or a letter of credit, can the trust fund language and life insurance language be removed from the first page of the preneed sales contract and the terms “surety bond” or “letter of credit” be substituted?

Yes. However, appropriate language addressing surety bond or letter of credit must be substituted on the second page of the preneed contract for the language regarding life insurance or trust.

Additional Cemetery Requirements

30. Are all cemeteries considered endowment care cemeteries under the Act?

No, cemeteries operated by governmental agencies or by religious institutions and cemeteries which do not charge fees are not deemed endowment care cemeteries and are exempt from the endowment care cemetery requirement to establish an endowment care fund. If a cemetery stopped charging fees prior to May 1, 2002, the requirements to establish and maintain an endowment care fund do not apply, but that cemetery must continue to maintain a list of the names and addresses of the owners and a record of the property owners.

Installation of Vaults or Outer Burial Containers before Need

31. Can vaults or other forms of outer burial containers be installed before need?

Yes, but certain conditions must be met as outlined in the Bulletin dated December 5, 2008. Among those conditions are: (1) the preneed contract must contain a conspicuously-displayed provision, to be signed or initialed by the preneed purchaser, in which the preneed purchaser elects to have the container at need. (2) The preneed contract must clearly distinguish between service fees to install the vault/outer burial container before need and fees for re-opening the previously installed vault/outer burial container, placing the casket, and closing and covering the vault/outer burial container at need. (3) The disclosed fee to install a vault/outer burial container before need shall not exceed 50% of the total amount. (4) A disclosure form must be given to the preneed purchaser. See Bulletin dated December 5, 2008 for further information on the required conditions and a model disclosure form.

Check Status of Preneed Certificate Holders and Sales Agents

- Call the Alabama Department of Insurance at (800) 433-3966 extension 4420
- Fax (334) 241-4138
- Email: preneed@insurance.alabama.gov
- Mail: Alabama Department of Insurance
Preneed Division
201 Monroe Street, Suite 502
P O Box 303351
Montgomery, AL 36130-3351
- Internet: www.aldoi.gov

ADDITIONAL RESOURCES

- **Federal Trade Commission**
CRC-240
Washington, DC 20580
1-877-FTC-HELP (383-4357)
www.ftc.gov/bcp/online/pubs/services/funeral.htm
- **International Cemetery, Cremation and Funeral Association**
107 Carpenter Drive Suite 100
Sterling, Virginia 20164
1-800-645-7700
www.icfa.org
- **AARP**
601 E St., NW
Washington, DC 20049
www.aarp.org
- **National Funeral Directors Association**
13625 Bishops Drive
Brookfield, WI 53005
1-800-228-6332
www.nfda.org

This is a publication of the Alabama Department of Insurance, Preneed Division, Jim Ridling, Commissioner. This guide is to assist consumers in making preneed funeral and cemetery arrangements and to assist preneed entities.

For additional copies of this guide, or for an electronic version of this guide, please call (334) 240-4420.